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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

ROBERT E. BEARDEN,

Plaintiff,

v.

COLLECTO, INC. d/b/a EOS CCA,

Defendant.

Case No.

**COMPLAINT FOR DAMAGES**

**1. VIOLATIONS OF THE TELEPHONE  
CONSUMER PROTECTION ACT, 47 U.S.C.  
§227 ET SEQ.**

**DEMAND FOR JURY TRIAL**

**COMPLAINT**

NOW comes ROBERT E. BEARDEN (“Plaintiff”), by and through his attorneys, WAJDA LAW GROUP, APC (“Wajda”), complaining as to the conduct of COLLECTO, INC. d/b/a EOS CCA (“Defendant”), as follows:

**NATURE OF THE ACTION**

1. Plaintiff brings this action for damages pursuant to the Telephone Consumer Protection Act (“TCPA”) under 47 U.S.C. §227 *et seq.*, for Defendant’s unlawful conduct.

**JURISDICTION AND VENUE**

2. This action arises under and is brought pursuant to the TCPA. Subject matter jurisdiction is conferred upon this Court by 47 U.S.C §227, 28 U.S.C. §§1331 and 1337, as the action arises under the laws of the United States.

1 3. Venue is proper in this Court pursuant to 28 U.S.C. §1391 as Defendant conducts business  
2 in the Eastern District of California and a substantial portion the events or omissions giving rise to  
3 the claims occurred within the Eastern District of California.

4  
5 **PARTIES**

6 4. Plaintiff is a consumer over-the-age of 18 residing in Sacramento County, California, which  
7 is located within the Eastern District of California.

8 5. Plaintiff is a “person,” as defined by 47 U.S.C. §153(39).

9 6. Defendant promotes itself as “one of America’s largest customer care and receivables  
10 management companies.”<sup>1</sup> Defendant is a corporation organized under the laws of the State of  
11 Massachusetts. Defendant’s principal place of business located at 700 Longwater Drive, Norwell,  
12 Massachusetts 02061. Defendant is in the business of collecting consumer debt for others  
13 throughout the United States, including in California.

14 7. Defendant is a “person” as defined by 47 U.S.C. §153(39).

15 8. Defendant acted through its agents, employees, officers, members, directors, heirs,  
16 successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers at all times  
17 relevant to the instant action.

18  
19 **FACTS SUPPORTING CAUSES OF ACTION**

20 9. A couple years ago, Plaintiff incurred a non-consumer debt, which he subsequently  
21 defaulted upon (“subject debt”).

22 10. Upon information and belief, Defendant subsequently acquired the rights to collect upon  
23 the subject debt.

24 11. Around early 2019, Plaintiff began receiving calls to his cellular phone, (916) XXX-9146,  
25 from Defendant.

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<sup>1</sup> <http://www.eos-usa.com/>

1 12. At all times relevant to the instant action, Plaintiff was the sole subscriber, owner, and  
2 operator of the cellular phone ending in -9146. Plaintiff is and always has been financially  
3 responsible for the cellular phone and its services.

4 13. Defendant has primarily used the phone number (800) 491-1178 when placing collection  
5 calls to Plaintiff's cellular phone, but upon belief, Defendant has used other numbers as well.

6 14. Upon information and belief, the above-referenced phone number ending in -1178 is  
7 regularly utilized by Defendant during its debt collection activities.

8 15. During answered phone calls from Defendant, Plaintiff has experienced a significant  
9 pause, lasting several seconds in length, before being connected with a live representative.

10 16. Upon speaking with Defendant, Plaintiff was informed that Defendant is a debt collector  
11 attempting to collect upon the subject debt.

12 17. As a result of Defendant's continuous phone calls, Plaintiff instructed Defendant to stop  
13 calling him.

14 18. Despite Plaintiff's demands, Defendant continued to place phone calls to Plaintiff's  
15 cellular phone seeking collection of the subject debt.

16 19. Plaintiff has received not less than 20 phone calls from Defendant since asking it to stop  
17 calling.

18 20. Frustrated over Defendant's conduct, Plaintiff spoke with Wajda regarding his rights,  
19 resulting in expenses.

20 21. Plaintiff has been unfairly and unnecessarily harassed by Defendant's actions.

21 22. Plaintiff has suffered concrete harm as a result of Defendant's actions, including but not  
22 limited to, invasion of privacy, aggravation that accompanies collection telephone calls, emotional  
23 distress, increased risk of personal injury resulting from the distraction caused by the never-ending  
24 calls, increased usage of his telephone services, loss of cellular phone capacity, diminished cellular  
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1 phone functionality, decreased battery life on his cellular phone, and diminished space for data  
2 storage on his cellular phone.

3  
4 **COUNT I – VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**

5 23. Plaintiff repeats and realleges paragraphs 1 through 22 as though fully set forth herein.

6 24. The TCPA, pursuant to 47 U.S.C. § 227(b)(1)(iii), prohibits calling persons on their  
7 cellular phone using an automatic telephone dialing system (“ATDS”) or pre-recorded messages  
8 without their consent. The TCPA, under 47 U.S.C. § 227(a)(1), defines an ATDS as “equipment  
9 which has the capacity...to store or produce telephone numbers to be called, using a random or  
10 sequential number generator; and to dial such numbers.”  
11

12 25. Defendant used an ATDS in connection with its communications directed towards  
13 Plaintiff’s cellular phone. The significant pause, lasting several seconds in length, which Plaintiff  
14 has experienced during answered calls is instructive that an ATDS was being utilized to generate  
15 the phone calls. Additionally, Defendant’s continued contacts to Plaintiff after he demanded that  
16 the phone calls stop further demonstrates Defendant’s use of an ATDS. Moreover, the nature and  
17 frequency of Defendant’s contacts points to the involvement of an ATDS.  
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19 26. Defendant violated the TCPA by placing at least 20 phone calls to Plaintiff’s cellular phone  
20 using an ATDS without his consent. Any consent that Plaintiff *may* have given to the originator of  
21 the subject debt, which Defendant will likely assert transferred down, was specifically revoked by  
22 Plaintiff’s demands that it cease contacting him.

23 27. The calls placed by Defendant to Plaintiff were regarding collection activity and not for  
24 emergency purposes as defined by the TCPA under 47 U.S.C. §227(b)(1)(A)(i).  
25

26 28. Under the TCPA, pursuant to 47 U.S.C. § 227(b)(3)(B), Defendant is liable to Plaintiff for  
27 at least \$500.00 per call. Moreover, Defendant’s willful and knowing violations of the TCPA  
28

1 should trigger this Honorable Court's ability to triple the damages to which Plaintiff is otherwise  
2 entitled to under 47 U.S.C. § 227(b)(3)(C).

3 WHEREFORE, Plaintiff, ROBERT E. BEARDEN, respectfully requests that this Honorable  
4 Court enter judgment in his favor as follows:

- 5
- 6 a. Declaring that the practices complained of herein are unlawful and violate the  
7 aforementioned statutes and regulations;
  - 8 b. Awarding Plaintiff damages of at least \$500.00 per phone call and treble damages  
9 pursuant to 47 U.S.C. §§ 227(b)(3)(B)&(C);
  - 10 c. Awarding Plaintiff costs and reasonable attorney fees;
  - 11 d. Enjoining Defendant from further contacting Plaintiff; and
  - 12 e. Awarding any other relief as this Honorable Court deems just and appropriate.

13 Dated: May 11, 2020

Respectfully submitted,

14  
15 Nicholas M. Wajda  
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